

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric  
Company (U 902-E) for an Order Implementing  
Assembly Bill 265.

Application 00-10-045  
(Filed October 24, 2000)

Application of San Diego Gas & Electric  
Company (U 902-E) for Authority to Implement  
an Electric Rate Surcharge to Manage the Balance  
in the Energy Rate Ceiling Revenue Shortfall  
Account.

Application 01-01-044  
(Filed January 24, 2001)

**CLARIFICATION OF ASSIGNED COMMISSIONER'S RULING  
OF MAY 16, 2002 DIRECTING SERVICE OF DOCUMENTS AND  
(2) FILING OF NOTICE OF EX PARTE COMMUNICATION**

By letter to General Counsel Gary Cohen dated May 10, 2002, copies of which were sent to each Commissioner, Sempra Energy transmitted to the Commission a proposed Settlement Agreement that, according to the letter, would "resolve fully and completely the federal court litigation" in SDG&E v. Loretta Lynch, et al., United States District Court for the Southern District, Case Number 02CV339 BTM (LAB). In the letter, Sempra Energy requested expedited Commission consideration of the proposed Settlement Agreement in closed session on May 16, 2002.

However, in addition to proposing settlement of the pending federal court litigation, the Settlement Agreement also proposed to resolve substantive issues pertaining to certain power procurement contracts that are being litigated in the captioned proceedings. (See Assigned Commissioner's Ruling Vacating

Suspension of Procedural Schedule, Updating the Scope, and Revising the Schedule, dated March 28, 2002.)

Accordingly, good cause appearing, on May 16, 2002, I ruled that:

1. No later than Monday, May 20, 2002, San Diego Gas and Electric Company (SDG&E) should serve a copy of the above-described letter from Sempra Energy and the accompanying proposed Settlement Agreement on parties of record in the captioned proceedings;
2. Pursuant to Rules 5, 7, and 7.1 of the Rules of Practice and Procedure (Rules), SDG&E shall file notice(s) of any communication(s) with decision-makers that concern substantive issues in the captioned proceedings, including issues pertaining to the power procurement contracts that are addressed in the proposed Settlement Agreement, if such communication(s) did not occur in a public hearing, workshop, or other public setting, or on the record; and
3. In the event that SDG&E wishes to pursue implementation of the proposed Settlement Agreement or any other settlement regarding issues in this proceeding, it shall do so in accordance with the rules governing stipulations and settlements set forth in Article 13.5 (Rule 51, et seq.) and the Rules.

In issuing this Ruling on May 16, it was not my intention to preclude SDG&E from discussing, with the Commission's General Counsel's office, issues involved in the pending federal court litigation or from proposing a resolution of that pending litigation for possible adoption by the Commission. It was the intention of my May 16, 2002 Ruling to assure that any proposed settlement of the issues in the captioned proceedings be conducted in a manner that is consistent with the Commission's Rules. Accordingly, my ruling of May 16, 2002 is clarified in the following respects:

1. The Ruling of May 16, 2002 does not preclude SDG&E from discussing with the Commission's General Counsel's office or proposing resolution of the issues that are the subject of the pending federal court litigation.
2. Nothing in the Ruling of May 16, 2002 shall preclude SDG&E from simultaneously proposing to the Commission, and all parties of the captioned proceeding, resolution of the issues that are the subject of the pending federal court litigation, upon which the parties would be allowed to comment.

Dated June 7, 2002, at San Francisco, California.

/s/ CARL WOOD

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Carl Wood  
Assigned Commissioner

## **CERTIFICATE OF SERVICE**

I certify that I have by mail and by electronic mail on this day served a true copy of the original attached Clarification of Assigned Commissioner's Ruling of May 16, 2002 Directing (1) Service of Documents and (2) Filing of Notice of Ex Parte Communication on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated June 7, 2002, at San Francisco, California.

/s/ SUSIE TOY  
Susie Toy

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.